PUBLIC PROSECUTOR

v.

LEE BENG SIANG

HIGH COURT MALAYA, MUAR
RICHARD TALALLA J
[CRIMINAL TRIAL NO. 47-2 OF 1989]
25 JULY 1991

CRIMINAL LAW AND PROCEDURE: *Trafficking in dangerous drugs - Chemical analysis of drugs - Weighing procedure - Blending - Coning - Quartering - Working sample - Representative sample - Colour test, thin layer chromatography test, gas liquid chromatography test - Failure to state quantity of representative sample - Qualitative test - Weight of air and moisture - Whether prosecution had proven the weight of the heroin beyond reasonable doubt - Courts to ensure strict considerations in cases involving personal liberty of the accused - Power of Court to alter charge - Criminal Procedure Code, ss. 154, 158, 180, 279 and 280 - Dangerous Drugs Act 1952, ss. 12(2), (3), 37(da)(i),(j), 39A(2)(a), 39B(1)(a), (2) and First Schedule.*

The accused in this case was charged under s. 39B of the Dangerous Drugs Act 1952 (DDA) for trafficking in heroin. The prosecutor sought to rely solely on 23.02 gms of the evidence of the chemist and the statutory presumptions under s. 37(da)(i) of the DDA.

This judgment examines the procedures and tests adopted by the chemist in arriving at the weight of the heroin found and whether the tests carried out were in line with prescribed procedures.

Held:

[1] There had been a failure by the prosecution to prove whether the prescribed weight of the heroin had been proven beyond reasonable doubt as:

(a) the chemist did not ensure that the substance formed was devoid of air and moisture before weighing it and did not take into consideration the weight of the air and moisture in arriving at the nett weight;

(b) there was also a failure to explain what the moisture was, whether it was a combination of air and water or other liquid nor what the general weight of the moisture was;

(c) there was a failure to explain what the chemist meant by analysis in accordance with accepted practice, who prescribed such practice, how it came about and by whom it was accepted.

(d) there was a failure to adopt the procedure set out in the presumptions under s. 37(j) of the DDA;

(e) there was a failure to provide conclusive results as to the weight of the heroin present in the pinkish substance. There was no evidence of the quality of the sample;

(f) there was a failure to describe the 3 tests and a failure to explain how the particular tests worked and the results it would produce;

(g) there was no evidence of the weight of the sample in which the heroin was detected and therefore no percentages of the heroin so detected and therefore no basis upon which the chemist could by mathematical deduction arrive at the conclusion that the 2 lots of substance contained 15.4 and 7.62 grammes respectively;

(h) there was a failure to take into account the margin of error in arriving at the computation of the weight of the heroin.

(i) there was no evidence before the Court of the description of the instrument used to weigh the substance, how it worked or if it was in proper working order and duly serviced.

(j) there was no evidence as to who had possession, custody, or control of the exhibits between the time they were handed to the chemist by the police and the conclusion of the analysis.

[2] On the facts above, there were serious gaps in the chemist's evidence.

[3] The Court should be concerned to ensure that not only are the same strict considerations as pertain to *habeas corpus* cases to be applied here but also that each and every ingredient making up the offence charged is strictly proved, proved beyond reasonable doubt, the more so when the prosecution is relying on a statutory presumption to prove the capital charge.

[4] Upon consideration of the chemist's evidence as a whole and the many unsatisfactory aspects therein and having posed the hypothetical question in both the forms recommended in *Munusamy v. PP* referred to above, the prosecution had failed to prove that the accused was trafficking in heroin.

[5] There was however evidence that he was in possession of the drugs and the charge was therefore amended to that particular offence. Section 158 of the CPC empowers the Court to alter a charge at any time before judgment is pronounced.

[Accused pleaded guilty to amended charge; convicted and sentenced.]

Cases referred to:
Abdullah bin Yaacob v. PP [1991] 1 MLJ 237 ***(cit)***
Au Ah Lin v. PP [1963] 29 MLJ 365 ***(cons)***
Munusamy v. PP [1987] CLJ (Rep) 221 ***(dist)***
Pacific Tin Consolidated Corporation v. Hoon Wee Thim [1967] 2 MLJ 35 ***(cons)***
Poh Chin Kay v. Menteri Hal Ehwal Dalam Negeri, Malaysia & Anor. and Other Appeals [1990] 1 CLJ (Rep) 155 ***(cons)***
PP v. Ang Soon Huat [1991] 1 MLJ 1 ***(cit)***
PP v. Chew Yoo Choi [1990] 2 MLJ 444 ***(foll)***
PP v. Wahab bin Abdullah [1991] 1 MLJ 218 ***(cit)***
Tan Boon Liat @ Allen & Anor. v. Menteri Hal Ehwal Dalam Negeri & Ors. [1977] 2 MLJ 108 ***(cons)***
Tan Hoon Seng and Ng King Chew v. Minister for Home Affairs & Anor. [1990] 1 CLJ (Rep) 271 ***(cit)***

Legislation referred to:
Criminal Procedure Code, ss. 154, 158, 180, 279, 280
Dangerous Drugs Act 1952, ss. 12(2),(3), 37(da)(i),(j), 39A(2)(a), 39B(1)(a), (2), First Schedule
Federal Constitution, art. 5(1)

For the prosecution - Hj. Idris bin Hj. Othman, DPP
For the accused - W.P. Leong; M/s. W.P. Leong & Partners

JUDGMENT

Richard Talalla J:

In this case the accused stands charged as follows:

> Bahawa kamu, Lee Beng Siang K/P. No. S.0048242J (Singapura). Pada 3 Mei 1988, jam lebih kurang 6.15 pagi, di Simpang Jalan Seroja/Jalan Kemuning, Batu Satu, Jalan Tanjong Laboh, Batu Pahat, dalam daerah Batu Pahat, Negeri Johor bagi pihak kamu sendiri, telah didapati mengedar dadah berbahaya iaitu 23.02 gram heroin, dan dengan itu, kamu telah melakukan satu kesalahan di bawah s. 39B(1) Akta Dadah Berbahaya 1952 dan boleh dihukum di bawah s. 39B(2) Akta yang sama.

The prosecution called as its 1st witness one Mr. Qua Sai Chuan a senior chemist attached to the Department of Chemistry, Johor Bahru. Mr. Qua testified that on 9 May 1988 he received from one Inspector Sahat *inter alia* 2 packages one of which contained 20 sealed plastic packets each containing a light pinkish granular substance and the other containing 10 sealed plastic packets each containing a like substance.

Mr. Qua weighed the 20 packets with their respective seals intact. He then removed their contents and weighed the empty packets. He ascertained the difference in weight between the packets in their gross state and the empty packets and that difference he deduced to be the nett weight of the contents. The nett weight he so found was 75.2 grammes.

He then put the contents in a blender and testified to thoroughly blending the same until it became a fine powder. After the blending, a sampling process known as coning and quartering was applied to the powder. A total of 4 coning and quartering processes was carried on this powdered sample until a working sample which is the representative sample was derived for analysis. The chemist went on to testify that very briefly there were 3 different methods that were employed in this analysis, the methods being (i) colour test, (ii) thin layer chromatography and (iii) gas liquid chromatography. The chemist added that these were established methods. Having analysed the contents so he came to the conclusion that the 75.2 grammes of substance contained 15.4 grammes of heroin.

Mr. Qua adopted the same procedure and system of analysis in respect of the contents of the other 10 plastic packets and found their nett weight to be 37.64 grammes which contents on analysis he concluded contained 7.62 grammes of heroin.

The chemist did not testify to the quantity of the representative sample he took for each of the 2 analysis but said in his opinion the sample taken was more than enough for the analysis.

The chemist issued a written report of his analysis and findings. The relevant part of the report is as follows:

> I examined the envelopes submitted and found:
>
> In envelope “B” - A plastic bag marked “A” and an envelope marked “AA”.
>
> (i) I found in plastic bag “A” another envelope also marked “A” containing twenty (20) plastic packets marked “A1” to “A20” respectively.
>
> The above plastic packets each contained some light pinkish granular substance, having a total nett weight of 75.42 grammes.
>
> On analysis, I found the above light pinkish substance to contain 15.40 grammes of heroin.
>
> The light pinkish granular substance had all been powdered and a representative sample was collected for analysis before it was packed in a separate plastic bag labelled “A” and with the above laboratory number.

(ii) I found envelope "AA" to contain ten (10) plastic packets marked "AA1" to "AA10" respectively, each filled with some light pinkish granular substance, having a total nett weight of 37.64 grammes.

On analysis, I found the above light pinkish substance to contain 7.62 grammes of heroin.

The light pinkish granular substance had all been powdered and a representative sample was collected for analysis before it was packed in a separate plastic bag labelled "AA" and with the above laboratory number.

Heroin is listed in the First Schedule of the "Dangerous Drugs Act 1952".

In cross-examination Mr. Qua admitted in regard to the 3 methods he adopted that the colour test and the thin layer chromatography test were qualitative tests meaning that they were tests to determine the type of drug as opposed to its quantity.

The cross-examination continued. He was asked whether if the same exhibits had been analysed by another chemist in the same department as his the weight result might be slightly different to which he agreed that the weight would be more or less.

The chemist went on in cross-examination to testify that the general procedure in his department was to register exhibits in the general office but in this particular case, it was a major case in the sense that it was a drug trafficking case, the investigating officer came straight to see and handed over the exhibits to him. This happened on 9 May 1988. The chemist testified to having completed both his analyses on 13 June 1988 and to returning all exhibits to Inspector Sahat on 4 July 1988. There is no evidence as to where all these exhibits were in the interim that is to say between 9 May 1988 the day they were received from the police and 4 July when they were returned to the police.

When Mr. Qua weighed the packets for their gross weight they were sealed. He confessed to each packet containing a certain amount of air and that air does have weight, that possibly in the sealed packets there would have been moisture and that moisture carries weight. He then confirmed that he did not directly weigh the contents of the packet but ascertained the same by subtraction. He also confirmed that he did not know the percentage or weight of heroin in each and every packet.

In re-examination the chemist testified that no doubt there was moisture in the plastic packets but the weight of the air was negligible. He added that in fact it would not be detected by his analytical balance which could weigh up to the 4th decimal place and that the same applied to moisture.

Mr. Qua proceeded on in re-examination to say the weight of heroin from the combined contents of the 20 packets would be the same as the weight of the heroin obtained by individual analysis if that individual analysis had been carried out on each of the packets. Finally in re-examination he testified that he carried out a statistical analysis of errors and found the percentage error to be 1.037% from the 20 packets and 1.093% from the contents of the 10 packets.

On completion of the testimony of the chemist, he being as I said the 1st prosecution witness, I asked the learned Deputy, despite the provisions of ss. 279 and 280 of the Criminal Procedure Code (the Code) which were in my mind at the time, whether he would be leading further evidence on the issue of trafficking. His answer was in the negative and that the prosecution would be relying on the evidence of the chemist and the statutory presumption under s. 37(da)(i) of the Dangerous Drugs Act 1952 (the Act) to prove trafficking. That being the case it seemed to me that the Court should hear submissions at that stage on the said issue

and thereafter if the Court found that the prosecution had established, on the evidence of the chemist, a case for the presumption under s. 37(da)(i) to arise, the trial should go on as charged. If the Court found otherwise then it would have to follow that there was no case of trafficking and in that event the Court should give consideration to forthwith altering the charge under s. 158 of the Code. Such a course, to my mind, had the effect of obviating the necessity of a long and expensive trial. Having expressed this view in the course of the trial to both Counsel to which there was no objection, I heard submissions from both Counsels.

Defence Counsel in the first place questioned the method of weighing adopted by the chemist, saying that the weight of the air and moisture in the sealed packets was not deducted. Secondly Counsel argued that the chemist had admitted to there being a margin of error and that no allowance was made for the same. Thirdly it was argued on behalf of the accused that all the contents of the substance were lumped together and that thus the chemist had followed his own procedure instead of the procedure deducible from the presumption provided in s. 37(j) of the Act which reads as follows:

> ... when any substance suspected of being a dangerous drug has been seized and such substance is contained in a number of receptacles, it shall be sufficient to analyse samples of the contents of a number not less than 10 per centum of such receptacles and if such analysis establishes that such samples are all of the same nature and description, it shall be presumed, until the contrary is proved, that the contents of all the receptacles were of the same nature and description as the sample so analysed and if such analysis establishes that such samples consist of or contain a dangerous drug, it shall be presumed, until the contrary is proved, that the contents of all the receptacles consist of or contain the same proportion of such drug.

The fourth point made on behalf of the accused was that there was no evidence of the accuracy of the weighing machine.

In this instance a main if not the paramount ingredient of the said offence is trafficking. At this stage the only question before the Court is whether the accused did traffic in the drugs concerned and to prove that he did so the prosecution is relying solely on the presumption (the presumption) provided for in s. 37(da)(i) of the Act which presumption reads as follows:

> ... any person who is found in possession of 15 grammes or more in weight of heroin or otherwise than in accordance with the authority of this Act or any other written law, shall be presumed, until the contrary is proved, to be trafficking in the said drug.

It will be seen at once that one essential prerequisite to the presumption arising in favour of the prosecution is that the weight of heroin the subject matter of the charge is proved beyond reasonable doubt to be 15 grammes or more. The learned Deputy having assured me that he was adducing no further evidence on the issue of trafficking and that he was relying solely on the evidence of the chemist to establish the same *via* the presumption it had to follow that the testimony of the chemist had to be scrutinised so as to ascertain whether the prescribed weight of the heroin has been proved beyond reasonable doubt. In regard to the chemist's evidence I make the following observations and findings.

Firstly, he did not ensure that the substance was devoid of air and moisture before weighing it. Instead he weighed the sealed packets, 20 of them in the course of one analysis and 10 of them in the second analysis, and did not take into consideration weight of the air and moisture in his reckoning of the nett weight of the substance. In fact he did not testify to the amount of air and moisture in the packets and it had to follow that he could not testify to their weight. It is true that the chemist said that the weight of the water and moisture involved was negligible. That was a categorical statement unsupported by explanation. He

did not speak to the weight of water. He did not say what the moisture was, whether it was a combination of air and water or other liquid, nor what the general weight of the moisture was.

Secondly the chemist spoke to mixing the substance in a blender. He claimed to have done this as a part of his analysis which he said was carried out in accordance with accepted practice. However he did not say who (what authority or body of persons) prescribed such practice or how it came about and by whom it was accepted. In this regard I have in mind the judgment of Chan Sek Keong J in *PP v. Ang Soon Huat* [1991] 1 MLJ 1. It is granted that the chemist testified that he mixed the substance thoroughly. To my mind that was insufficient. Rather he had to say not only what he did but also what ordinarily would be the effect of what he did, in this instance the extent and the final result of the mixing and the authority for the procedure adopted. With all this evidence in hand it was then for the Court to find whether in fact the substance was thoroughly mixed.

Thirdly the chemist did not adopt the procedure set out in presumption (j). Had he done so and all other considerations being satisfactory his evidence would have been acceptable. Instead the chemist adopted his own procedure. He lumped the contents of all 20 packets in one lot and mixed the lot. This to my mind was prejudicial to the accused because the greater the amount to be mixed, the greater the effort that is needed to do so and the greater the risk is of the mixture not being uniform. Granted this proposition and seeing that the chemist did not avail himself of the procedure set out in presumption (j), to my mind he should have weighed the substance in each packet separately, taken a sample from each, weighed each sample, ascertained the percentage of heroin in each sample, related each percentage to the nett weight of each respective sample to arrive at the weight of heroin in each packet and then added the weight in all the packets thus arriving at the total weight of heroin found in all the packets. I find the procedure he adopted to be unsatisfactory.

Fourthly the chemist said that he removed from the mixed substance a representative sample which he worked on to arrive at what he considered to be the percentage of heroin contained in that sample. However he did not weigh and therefore was unable to give the quantity of the sample he took. He did say however that the sample was more than enough for his purpose but again he did not offer any basis for saying so. In a case involving facts somewhat similar to this one, the case of *PP v. Chew Yoo Choi* [1990] 2 MLJ 444 Faiza Tamby Chik JC finding that the chemist's tests and analyses could not be safely relied upon, said at p. 447 that surely, as far as quantitative test is concerned, by using just 1 gramme out of a total of 71.97 grammes to find out the weight of the heroin present in the so called pinkish substance is certainly not conclusive. It was submitted by the learned Deputy that there is no statutory requirement for the chemist to have taken a specific quantity from the whole as a sample and by way of support the Deputy referred to the presumption in s. 37(j) of the Act and the case of *Au Ah Lin v. PP* [1963] 29 MLJ 365 where Thompson LP said at p. 366 in relation to a similar presumption in s. 61 of the Excise Act 1961:

> In our view s. 61 does not require that samples be taken of the contents of every package or container which is in question. The samples shall be 10% of the packages or containers and when that is done the presumption mentioned in the section as to the contents of all the packages arises. In our view the section does not require the taking of any particular quantity. That is abundantly clear on the reading of the section itself. The words "ten per centum" refer to the packages, not to the contents of each package.

With respect I agree but that to my mind does not detract from what Faiza Tamby Chik JC said as stated above. There was simply no evidence of the quantity of the sample. It could have been less than 1 gramme. It could have been an iota. As I see it there should have

been evidence as to why the chemist considered the unspecified amount he took by way of sample was sufficient for his purpose whereupon it would have been for the Court to decide whether the amount was adequate.

Fifthly, taking the representative sample the chemist testified to carrying out 3 named tests. Apart from that he did not describe these tests, in particular any quantitative test, nor did he explain how the particular test worked to the end that it would produce a certain result. So all the Court has before it by way of evidence on this aspect is that the chemist conducted 3 tests. With due respect I find his evidence in this regard unsatisfactory.

Sixthly, given that there was no evidence of the weight of the sample in which heroin was detected and so no percentage of the heroin so detected it had to follow that there was no basis upon which the chemist could by mathematical deduction related to the weight of the substance arrive at his conclusion that the 2 lots of substance contained 15.4 and 7.62 grammes respectively.

Seventhly the chemist having testified to there being a margin of error, there is no evidence of his having taken this into account in arriving at his computation of the weight of the heroin. This coupled with his admission that if the analysis had been carried out by another chemist in the department the weight of the heroin would be more or less, in my view gave rise to further doubt.

Eighthly there was no evidence before the Court of the description of the instrument the chemist used to weigh the substance, how it worked out or of it being in proper working order and duly serviced.

Ninthly the exhibits according to the chemist were handed to him by Inspector Sahat on 9 May 1988 and he completed his analysis on 13 June 1988. There was no evidence as to who had possession, custody or control of the exhibits in the interim. Obviously the chemist could not have had the exhibits in his personal possession all the time. He would have gone home after work each day. What did he do with the exhibits then? Did he keep them secured under lock and key when not working on them? Or did he leave them in the laboratory for all and sundry to have access to and possibly tamper or meddle with them? I do not know. What I do know is that the Courts require evidence of regular and proper custody of exhibits in cases of this nature. See the judgments of the Supreme Court in *PP v. Wahab bin Abdullah* [1991] 1 MLJ 218 and *Abdullah bin Yaacob v. PP* [1991] 2 MLJ 237. I find the evidence or rather the lack of it in this regard to be unsatisfactory.

The prosecution called in aid the Supreme Court decision in *Munusamy v. PP* [1987] CLJ (Rep) 221. Naturally I am bound by that decision. However that case seems to be distinguishable on the facts. There the only reason for sending the exhibits to the chemist was to determine their identity; not so here. There the charge was one of trafficking in cannabis weighing 649.5 grammes whereas this is a case of trafficking in 23.02 grammes of heroin. Here the margin in weight is a mere 8.02 grammes; a slender margin on which the life of the accused might well hang, if the sombre pun may be excused. Thus in the particular circumstances of this case the fate of the accused would be as much if not more in the hands of the unchallenged chemist as it is in the High Court to determine. That to my mind should not be allowed. In *Pacific Tin Consolidated Corporation v. Hoon Wee Thim* [1967] 2 MLJ 35, a civil case, it was argued that in dealing with matters of science, the views of the Judge himself, as a layman, should yield to those of the expert; and that no alternative view differing from that of the expert could be tenable without cogent evidence in its support. To that argument Ong Hock Thye FJ at p. 37 ruled that in all cases in which opinion of evidence

is receivable, whether from experts or not, the grounds or reasoning upon which such opinion is based may properly be inquired into. This is a capital charge in the criminal jurisdiction. It lies in the prosecution to prove beyond reasonable doubt to the satisfaction of the trial Judge that the substance produced to the chemist for analysis was properly analysed by him and properly found by him to contain 15 grammes or more of heroin. To the end of so satisfying the Judge the prosecution should have led conclusive evidence from the chemist as to how he arrived at his opinion of the weight of the heroin. On the facts of this case there are serious gaps in his evidence and I am not so satisfied.

It has been said by Hashim Yeop A Sani CJ in the Supreme Court in regard to cases of *habeas corpus* where the liberty of the individual is involved that the law of preventive detention must be construed strictly and in the case of doubt the Court should lean in favour of the subject and further a detention not in accordance with law is inconsistent with the fundamental right guaranteed by Article 5(1) of the Constitution. See the case of *Tan Hoon Seng and Ng King Chew v. Minister for Home Affairs & Anor.* [1990] 1 CLJ (Rep) 271 at p. 273. See also the dictum of Brett LJ in *The Reverend Thomas Pelham Dale's* case which *dictum* has found favour by the Federal Court in *Tan Boon Liat @ Allen & Anor. v. Menteri Hal Ehwal Dalam Negeri & Ors.* [1977] 2 MLJ 108 at p. 110. The *dictum* is as follows:

> Then comes the question upon the *habeas corpus.* It is a general rule, which has always been acted upon by the Courts of England, that if any person procures the imprisonment of another he must take care to do so by steps, all of which are entirely regular, and that if he fails to follow every step in the process with extreme regularity the Court will not allow the imprisonment to continue.

Furthermore in the case of *Poh Chin Kay v. Menteri Hal Ehwal Dalam Negeri, Malaysia & Anor.* and other appeals [1990] 1 CLJ (Rep) 155 at p. 159 once again our Chief Justice abovenamed said:

> We are fully conscious of the government's effort to combat the drug menace in this country. But there is a fundamental principle involved here. The power to detain a person without trial cannot be exercised by inference. The power must be expressed, clear and unequivocal. Where detention law and the liberty of the individuals are concerned, this is the most correct approach for the Courts to apply. There is hardly any need to repeat what has been said on the principle to be followed by the Courts dealing with detention law. The principle was emphasised in *Re Tan Boon Liat @ Allen & Anor.* at p. 114 reiterated by this Court in *PP v. Koh Yoke Koon* and *Tan Hoon Seng v. Minister of Home Affairs.*

Such are the strict curial demands in cases involving personal liberty; a *fortiori* in trials such as this where not only is the liberty of the subject at risk but the accused also stands vulnerable to mandatory sentence of death in the event of conviction of the offence charged. Thus it seems to me that this Court should be concerned to ensure that not only are the same strict considerations as pertain to *habeas corpus* cases to be applied here but also that each and every ingredient making up the offence charged is strictly proved, proved beyond reasonable doubt, the more so when the prosecution is relying on a statutory presumption to prove the capital charge.

Upon a consideration of the chemist's evidence as a whole and that many unsatisfactory aspects therein as stated above and having posed the hypothetical question in both the forms recommended in *Munusamy v. PP* referred to above I find that the prosecution has failed to prove that the accused was trafficking in heroin as charged but I do find that there is evidence that he was in possession thereof. Accordingly pursuant to s. 154 of the Code I should alter the charge to one of possession punishable under s. 39A of the Act.

I should add that notwithstanding the learned Deputy's assurance that he would not be leading further evidence of trafficking, in his submission in answer to that of the defence he referred to s. 180 of the Code which provides that when the case for the prosecution is concluded the Court, if it finds that no case against the accused had been made out which if unrebutted would warrant his conviction shall record an order of acquittal, or, if it does not so find, shall call on the accused to enter on his defence. By that reference I took him to imply that despite the said assurance I should hear the case for the prosecution to its conclusion, then make a finding pursuant to the terms of that section and at that stage if thought fit to alter the charge. To my mind taking such a course would have been an exercise in futility. Section 158 of the Code to my mind is clear in its terms. It empowers the Court to alter the charge at any time before judgment is pronounced. Such being the case I exercise that power. The charge is altered thus:

> Bahawa kamu pada 3 Mei 1988 jam lebih kurang 6.15 pagi, di Simpang Jalan Seroja/Jalan Kemuning, Batu Satu, Jalan Tanjong Laboh, Batu Pahat dalam daerah Batu Pahat, Negeri Johor telah didapati memiliki dadah heroin jumlah berat 5 gram lebih, kurang dari 15 gram yang demikian itu telah menyalahi s. 12(2) dan boleh dihukum di bawah s. 12(3) dibaca bersama s. 39A(2)(a) Akta Dadah Berbahaya 1952.

The accused pleaded guilty to the amended charge, was convicted and sentenced to 12 years imprisonment with effect from the date of his test and the mandatory 10 strokes of the rotan.

Also found at [1991] 3 CLJ 2927